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FISCAL IMPACT STATEMENT

LS 7236

BILL NUMBER: SB 365

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BILL AMENDED: Mar 24, 2009

SUBJECT: Various Human Service Matters.

FIRST AUTHOR: Sen. Lawson C

FIRST SPONSOR: Rep. Avery

BILL STATUS: As Passed House

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: *Provisions Affecting the Family and Social Services Administration (FSSA) and other FSSA subsidiaries:*

This bill: (A) requires that certain contractors for the Division of Family Resources (DFR), the Office of Medicaid Policy and Planning (OMPP), and the Secretary of FSSA that process eligibility intake information for the federal Supplemental Nutrition Assistance Program (SNAP) [Note: Formerly the federal Food Stamp Program.], the Temporary Assistance to Needy Families (TANF) program, and the Medicaid program review certain data and provide that information to the Select Joint Commission on Medicaid Oversight (JCMO); (B) requires an employee of a county office of DFR to directly assist any individual who enters the county office and requests assistance in completing an application for a program serviced by the county office, including SNAP, TANF, and Medicaid; (C) requires OMPP to require a contractor that assists in the administration of eligibility determinations to do the following: (1) implement a document tracking and verification system and (2) provide a health care facility with a dedicated telephone number and specified assistance; (D) eliminates authority of DFR to replace county offices with regional offices; (E) replaces references to "local office" and "local director" with "county office" and "county director"; (F) repeals definitions of "local office" and "local director"; and (G) prohibits the Office of the Secretary of FSSA from using a contractor to assist in making eligibility determinations for the Medicaid, SNAP, and TANF programs in additional counties after November 1, 2008, until the JCMO has reviewed the changes and status of the counties that implemented the eligibility determination changes before November 1, 2008.

Provisions Affecting the Department of Child Services (DCS) and other DCS subsidiaries:

The bill: (1) repeals provisions concerning local coordinating committees;

(2) removes information that could be included in a petition for adoption;

(3) requires a petition for adoption that is in proper form to be forwarded to DCS;

(4) specifies certain supervision that is a prerequisite to adoption;

(5) provides that DCS may publish or post on its website a list of supervising adoption agencies;

(6) provides that licensed child placing agencies or county Offices of Family and Children will ensure that certain criminal history checks are conducted (current law requires DCS to conduct the criminal history checks);

(7) removes classifications of when a child is hard to place and requires DCS to define "hard to place";

(8) requires a court to refer a petitioner for adoption who requests financial assistance to DCS;

(9) changes the frequency DCS is required to report information regarding caseloads of child protection caseworkers;

(10) provides that a child's case plan for a child in need of services (CHINS) includes ensuring educational stability of the child while in foster care;

(11) provides that under certain circumstances the refusal of a parent, guardian, or custodian to submit to a drug or alcohol test after the death of a child may be used to determine that the parent was intoxicated or under the influence of drugs or alcohol at the time of the child's death;

(12) gives DCS additional emergency rule-making authority;

(13) provides DCS is responsible for the cost of treatment or maintenance of a child under DCS's supervision only if the costs are reimbursable under the state Medicaid program;

(14) changes references from FSSA to DCS;

(15) changes references from caseworkers to family case managers;

(16) changes references from child abuse "investigations" to "assessments";

(17) provides that if DCS believes that a child is in imminent danger of serious bodily harm, DCS shall initiate an immediate assessment;

(18) provides DCS shall assess a report of a child who lives with a parent who is married to or lives with a person who is required to register as a sex offender, has been convicted of a battery offense, or neglect of a dependent;

(19) removes the requirement that the Bureau of Child Support demonstrate that all previous enforcement actions have been unsuccessful before sending an obligor a notice that the obligor is delinquent;

(20) provides that a petition alleging that a child taken into custody is a CHINS shall be filed before the detention hearing and initial CHINS hearings are held at the same time as the detention hearing;

(21) requires a coroner to immediately notify the county office of DCS of the death of a person who died in an apparently suspicious, unnatural, unexpected, or unexplained manner and is less than 18 years of age;

(22) requires DCS, in cooperation with the state Department of Education (DOE), to develop and coordinate the education advocates for children in foster care plan;

(23) authorizes a probation department, the county Office of Family and Children, and DCS to exchange information to prepare certain reports concerning a child;

(24) provides that if a child is removed from the child's parents, DCS shall identify and provide notice of the removal to certain adult relatives;

(25) specifies the data and information that must be disclosed in records of cases of a child fatality or near fatality that may have been a result of abuse, abandonment, or neglect;

(26) removes the option for DCS to classify an assessment of suspected child abuse or neglect as "indicated"; and

(27) removes the requirement under which a report based on the investigation concerning an adoption petition must state whether the child is classified as hard to place.

Provisions Affecting the Probation Department of the Indiana Judicial Center:

The bill: (1) removes a requirement that the probation department complete a child's case plan not more than 60 days after the date of the dispositional decree;
(2) requires the probation department to create a case plan if a decree is modified;
(3) removes a requirement for a probation officer to include certain information in a predispositional report for DCS to determine if a child is eligible for certain government assistance; and
(4) adds references to probation departments' duties concerning legal settlement of a student.

Provisions Affecting the Court Operations:

The bill: (A) prohibits a court from appointing a person to serve as a guardian or to continue to serve as a guardian if the person committed certain sex offenses,
(B) prohibits a court or juvenile court from permitting a person to serve as a guardian or custodian if the person was convicted as an adult of certain sex offenses that the person committed when the person was less than 18 years of age, and
(C) provides that a court may: (1) order a party who is alleged to be in contempt of court regarding violation of a child support order to show cause as to why the party should not be held in contempt; and (2) if the party fails to respond to the order to show cause, issue a bench warrant and require the party to deposit an escrow amount before the hearing to show cause;
(D) requires a court to incorporate certain DCS records into an order.

Penalty Provisions: The bill (1) enhances battery to a Class D felony if the victim suffers bodily injury and is a DCS employee and (2) adds employees of DCS to the list of persons covered by the statute making battery by bodily waste a Class D felony.

Effective Date: Upon passage; July 1, 2009.

Explanation of State Expenditures: This bill has the following impacts on state expenditures.

Medicaid, SNAP, and TANF Contract Requirements: Certain requirements of the bill are already specified by the contract or may be performed within the scope of the vendor contract. The provisions requiring the return of county office responsibilities and the appointment of a county director will depend on administrative actions. The requirement for document tracking and verification of receipt would require a change order to the contract and the resulting cost would depend on the scope of additional work or service that would be necessary to implement the changes. FSSA has estimated this provision to require a total of \$19.5 M, or \$8.6 M in state General Funds. The requirement for the contractor to report to the Select Joint Commission on Medicaid Oversight (JCMO) should be accomplished within the scope of the contract.

Eligibility Determinations for Medicaid, SNAP, and TANF: The costs associated with this provision will depend on whether the additional scrutiny by the JCMO would delay the eligibility modernization transition or delay the completion of the transition period and the resulting Steady State date, which is when the contract allows variable volume rates to be charged. The bill would prevent FSSA from using a contractor to assist in making eligibility determinations for SNAP, Medicaid, and TANF in counties that are not currently using the contractor.

The bill will have minimal fiscal impact for JCMO to review statistical information and implementation progress.

In addition, the following provisions of the bill may increase or shift state expenditures:

- (1) The bill requires DCS to only pay for the costs of treatment or maintenance of a child under DCS's custody who is placed in a state institution if the costs are reimbursable under Medicaid. This will most likely shift costs to the Division of Mental Health and Addiction (DMHA) and the Division of Disability and Rehabilitative Services (DDRS). However, increases to DMHA and DCS costs are unknown.
- (2) The bill adds offenses that disqualify an individual from serving as a guardian or custodian and may decrease the number of potential guardians or custodians that can be appointed to a child and increase the number of children placed in foster care. Increases in foster care utilization will increase DCS expenditures.
- (3) The bill can increase the number of individuals that would be required to register as sex offenders in the state and may increase the number of CHINS. An increase in the number of CHINS will also increase the expenditures of DCS and the Division of State Court Administration (see *Background Information* for additional details).
- (4) This bill allows "assumed impairment" to be used during a judgment of child neglect and may result in increases in judgments of child neglect and orders for out-of-home placement. Increases in out-of-home placement will result in additional state expenditures.
- (5) The bill (A) enhances battery against a DCS employee who acts in the capacity of their job that results in bodily injury to a Class D felony and (B) adds DCS employees to the list of persons covered by the statute classifying battery by bodily waste, which is also a Class D felony. This will increase state expenditures to jail offenders to the extent these offenses are committed.

The following provisions of the bill may decrease state expenditures:

- (1) The bill allows DCS to publish lists of licensed child placing agencies that perform home studies on the Department's website.
- (2) The bill would require DCS to ensure a criminal history background check is obtained for adoptive parents working with licensed child placing agencies rather than conduct the background check themselves.
- (3) The bill requires DCS to pay for costs of treatment or maintenance of a child under DCS's custody who is placed in a state institution only if the costs are reimbursable under Medicaid. Expenditures will decrease to the extent that DCS financed the care of children that was outside the reimbursement eligibility under the Medicaid program.
- (4) The bill removes provisions of current law that allow a child to be classified as a CHINS from self-inflicted harm and can potentially decrease the number of CHINS in the state. Decreases in CHINS numbers in a county can decrease Division of State Court Administration expenditures for the Guardian ad Litem (GAL), and Court Appointed Special Advocates (CASA) program (see *Background Information* for additional details).

The following provisions of the bill may increase workload on each respective agency:

- (1) The bill specifies additional family members that DCS would be required to exercise due diligence to notify if a child is taken into state custody. [Note: DCS currently attempts to notify a child's relatives.]
- (2) The bill also requires DCS to perform an immediate assessment when the Department feels that a child is in imminent danger.
- (3) It increases the number of individuals that would be required to register as sex offenders in the state; the number of CHINS, and consequently the workload of DCS and the GAL/CASA program may increase as

a result.

(4) The bill requires DCS, in cooperation with DOE, to develop and coordinate the education advocates for children in a foster care plan.

(5) This bill also requires DCS to submit a report to the Governor and Legislative Council detailing the education advocate plan.

The following provisions of the bill may decrease workload on each respective agency:

(1) The bill will no longer require DCS to perform home studies for adoptions requested through licensed child placing agencies or other private adoption agencies, but only for wards of the state.

(2) The bill removes an option to classify an assessment of suspected child abuse/neglect as “indicated”. Minimal decreases are expected.

(3) This bill removes requirements that DCS expunge records of individuals named in indicated cases of child abuse. Minimal decreases are expected.

(4) It also removes a requirement that a probation officer coordinate with DCS to make a program or service recommendation in a predispositional report during a juvenile delinquency case. [Note: It is not known the extent to which probation officers currently request DCS staff to make program or service recommendations in juvenile delinquency cases as DCS bears no costs for secure juvenile detention.]

(5) This bill removes provisions requiring the Child Support Bureau to demonstrate all attempts to collect child support from a delinquent obligor. Minimal decreases are expected.

(6) The bill combines CHINS hearings and detention hearings. Court caseload is expected to decrease, as well as GAL/CASA workload. (The Division of State Court Administration does not collect information on how many children receive separate detention hearings and CHINS determination hearings.)

(7) This bill also removes provisions of current law that allow a child to be classified as a CHINS from self-inflicted harm. This may decrease the number of CHINS as well as court caseload and the workload of the GAL/CASA program.

The following provisions of the bill will have no fiscal impact:

(1) The bill specifies data and information that must be disclosed in the records of cases of a child fatality or near fatality that may have been the result of abuse, neglect, or abandonment.

(2) It requires the probation department, along with DCS, to notify a school corporation of where a student has legal settlement if a student’s placement is changed. DCS reports this codifies current practice.

(3) It also requires the court to keep all documents submitted to probation officers or the court for record in the event DCS appeals a decision made by the court. DCS reports this codifies current practice.

Background and Additional Information:

DCS currently pays for services provided to CHINS and services that formerly would have been provided by the county child welfare fund. DCS reports that the total CHINS cost in CY 2007 was approximately \$380 M. Currently, DOC is required to finance services for children placed in secure detention facilities.

Penalty Provision: A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care,

food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Select Joint Commission on Medicaid Oversight: The bill authorizes the Commission to request certain reports and data elements from the contractor in a manner and format defined by the Commission. If the Commission were required to meet more often as a result of this provision of the bill, additional resources may be necessary. However, the budget of the Commission has been specified by the Legislative Council as \$9,500 per interim. During the 2008 interim, the 12-member Commission held four meetings at a cost of \$9,100.

County Offices of the Division of Family Resources: The bill requires that the DFR maintain offices in each county by eliminating a provision that allowed the state to consolidate office operations into regions or districts for increased efficiency and better use of resources. This requirement should have no fiscal impact. The Master Services Contract requires the state to maintain at least one county office in each county and staff that office with at least one state employee for the performance of the applicable state-retained activities. (Section 3.1.1(4).) TANF, Medicaid, and SNAP recipients and applicants may receive services from the vendor-operated Help Centers as well as in the remaining 55 state service locations. The state is required to maintain space or use rights for the contractor or a subcontractor to perform applicable services for the county in the state service locations for the duration of the contract.

(Revised) *Direct Client Assistance:* The bill requires that state employees provide direct assistance for applicants who request assistance with the eligibility process. (State employees are also required to conduct face-to-face interviews as a federal requirement of the Food Stamps Program.) The bill specifies that supplying a computer or a telephone to an applicant does not constitute direct assistance. If the bill is interpreted to mean that only state employees are to provide the specified assistance, the state may need to hire additional staff in each of the 108 offices.

However, if the bill is interpreted to mean that a state employee must be available in an office to respond to questions, then FSSA may already be addressing the requirement within the current level of resources. FSSA reported that there are currently 682 state employees and 1,518 contract employees after modernization. Offices remain open in each county for those clients wishing face-to-face assistance. If it is assumed that the current state employees could assist or direct individuals to face-to-face assistance in each office, including by a contractor employee, then no additional staff may be needed. The contract currently requires contractor-operated offices to provide assistance to applicants, including the entry of data for applicants who choose not to use the self-serve options in the modernized counties.

As of March 31, 2009, contractor staffing has been increased with 160 temporary customer care representatives to provide direct assistance.

Regional Office Functions: The bill requires the DFR to reorganize the county offices if the DFR has consolidated county offices or has otherwise transferred the responsibilities of one or more county offices to a regional office. The contract calls for the vendor to operate 41 local offices, called Help Centers, in 37 counties. IMPACT program services are to be provided only from vendor-operated Help Centers. The bill may require the provision of IMPACT services within the county offices rather than a regional office.

County Directors: The bill also requires the DFR to appoint a county director in each county. The cost of this provision would depend on administrative actions. The DFR could appoint existing staff as county

directors. The county director's function has been filled on a part-time basis by directors with responsibility for multiple counties in the past. Currently, the DFR website shows 8 regional managers and more than 40 eligibility managers responsible for DFR offices in each county and multiple office locations within the most populous counties. Multiple county offices have just two or three state eligibility caseworkers assigned.

Document Tracking and Verification System: The cost of this requirement would depend on the cost of developing a verification system for the receipt of documentation within the specified time frame. The vendor-operated system has specific requirements for the submission of documents that are not submitted with the original application. This provision requires that each document received by the contractor be assigned a tracking number and that the arrival of each document be acknowledged within 24 hours with a receipt issued in the same manner in which it was received - by fax, mail, e-mail, or in person. The implementation of this provision has been reported by FSSA to require a total of \$19.5 M, or approximately \$8.6 M in state General Funds. FSSA reported that 29 additional clerks would be necessary to process and send the required receipts.

Dedicated Assistance for Health Facilities: The cost of this requirement may be achievable within the scope of the existing contract. The bill requires the vendor to provide a dedicated telephone number for the use of health facilities that is available around the clock and allows for expedited assistance in eligibility determinations and redeterminations. The bill requires the vendor to acknowledge receipt of a phone call placed on the dedicated line within 24 hours. The bill also specifies information to be provided regarding the documentation for the application for Medicaid assistance. The vendor's newsletter (the "V-CAN Connector") describes an entry point for V-CAN members serving special needs populations such as Medicaid nursing home patients, Medicaid waivers, and Medicaid disability applications. V-CAN members can submit case-specific enquiries on an e-mail request form directly to the applicable specialist eligibility group at the service center. A response is provided to the request within two business days. Additionally, testimony before the Health Finance Commission indicated that expedited telephone access is currently provided to certain high-volume V-CAN members.

Eligibility Determinations for Medicaid, SNAP, and TANF: The contract allows the state to suspend at any time the transition to the modernized system, which is to provide technology and systems for receiving and processing applications for public assistance, gathering and verifying appropriate data, and managing through document imaging the documentation required for DFR to perform eligibility determinations. However, if the transition is suspended for any reason other than the contractor's failure to perform its material obligations with respect to the transition, the state is liable for any additional reasonable charges resulting from the suspension and, if applicable, the restarting of the transition. The state also is required during any suspension to continue to pay all fees, which may be adjusted to reflect avoided costs of the contractor.

In July 2008, FSSA reported to the JCMO that the modernization solution was deployed to 59 of the 92 counties. Subsequently, it was reported that due to the necessary disaster response to flooding, the decision had been made to delay adding additional counties until further notice.

Explanation of State Revenues: See "*Eligibility Determinations for Medicaid, SNAP, and TANF*" in *Explanation of State Expenditures*.

Increases in Child Support Collections: The bill allows judges to hold delinquent child support obligors in contempt of court (also called "bench warrants"). The Child Support Bureau reports that this is a current practice of the court that is very effective at collecting child support. This provision may help to increase child support collections to the extent judges utilize this procedure more often. Increases in child support

collections will also increase revenue the state receives from the federal IV-D program. The actual impact on federal revenue is not known.

Penalty Provision: If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

Explanation of Local Expenditures: The following provisions of the bill may increase local expenditures:

- (1) The bill allows judges to hold delinquent child support obligors in contempt of court. The Child Support Bureau reports that this codifies a current practice utilized by judges. However, local expenditures to detain delinquent obligors may increase to the extent judges utilize bench warrants more often as a result of the bill.
- (2) The bill makes assault of a DCS employee a Class D felony and may increase jail operation expenditures if individuals are held in county jails prior to their court hearings.

The following provisions of the bill may increase workload on local government:

- (1) The bill requires probation officers employed by juvenile courts to create case plans when a child's disposition decree is modified. Currently, a probation officer is required to create a case plan for a child before 60 days after either (1) the date of a child's placement in an out-of-home residence or facility (that is not a secure detention facility) or (2) the date of the dispositional decree.
- (2) This bill may require courts, law enforcement, and court clerks to process additional escrow payments to the extent codifying the existing practice of issuing bench warrants for delinquent child support obligors increases bench warrant utilization by judges.
- (3) The bill also places responsibility on the courts to perform checks of individuals who are to be appointed as either a guardian or a custodian of a child.

The bill also removes the requirement that the local court clerk and the public library keep lists of licensed child placing agencies that perform home studies, which can decrease local workload. However, decreases are expected to be minimal.

Background Information: DOC reports that in 2004 there were 4,021 juveniles served in community corrections programs. Currently, there are 73 counties participating in the community corrections program for juveniles.

Often, the children referred to in this bill are placed in detention alternatives like home detention or community correctional facilities. Juveniles in community correction programs are nonviolent, youthful offenders who have been adjudicated for delinquent offenses that if committed by an adult would be considered a felony.

Explanation of Local Revenues: *GAL/CASA:* The Division of State Court Administration currently provides state matching funds to counties that have appropriate GAL/CASA services. If this bill changes the number of CHINS in a county, local revenue for the GAL/CASA program may change as well. Actual changes in local revenue are indeterminable, but expected to be small.

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would

receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: DCS; DMHA; DDRS; Juvenile court system; Division of State Court Administration; GAL/CASA Program; DOC; Bureau of Child Support; FSSA.

Local Agencies Affected: County GAL/CASA programs, local courts, local law enforcement agencies.

Information Sources: Jim Diller, Division of State Court Administration; Ann Houseworth, DCS; Leslie Dunn, Division of State Court Administration; Loretta Oleksy, Division of State Court Administration; *Master Services Agreement Regarding Division of Family Resources Modernization Project by and between the State of Indiana, Acting on behalf of the Family and Social Services Administration, and International Business Machines Corporation*, and Appendix II, and Schedules 6, 8-A, 8-B, 10, 24, and 25. *Modernization Update*, FSSA, July 31, 2008; Cynthia Longest, Child Support Bureau; Ellen Holland, DCS.

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